UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,177	06/27/2001	Michael S. Ripley	42390P11151	4529

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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER
HO, THOMAS M

ART UNIT	PAPER NUMBER
2134	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/893,177	RIPLEY ET AL.
	Examiner	Art Unit
	Thomas M. Ho	2134

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on <u>28 September 2005</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>6-8, 19, 20, 31-33 and 37-43</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>6-8, 19, 20, 31-33 and 37-43</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   **Claims 6-8, 19-20, 31-33, 37-43 are pending.**

2.   **The RCE of 9/28/05 has been received and entered.**

Response to Arguments

Applicant has argued on (page 9, Item 1):

In Saito, encrypted content is not retrieved from a content source. While the content may be

"stored in a database in advance" or "may be transferred" (Saito, Column 6, lines 40-41), the

encrypted content is generated (Saito, Column 6, lines 60-67), and then distributed (Saito,

Column 8, line 2). However the encrypted content is not stored, and retrieved in the context of

the claimed invention. In the claimed invention, content encrypted by a title key is retrieved.

For Example, encrypted content may be retrieved from a storage medium (for example,

specification, paragraph 47, line 3)

The Examiner contends that however the content is generated, it is clear that the encrypted

content is derived from a source. As applicant has cited, the content is stored in a database, the

encrypted content is generated, and then distributed. The distribution of the encrypted content

inherently renders it as a source of the encrypted content.

Furthermore, the Examiner notes Saito has additionally disclosure that more directly

discloses that the encrypted content is stored and distributed from a memory source. (Column 8,

lines 20-47)

Applicant has additionally argued (page 10, Item 2)

In Saito, the encrypted content and encrypted title key are not transferred from a "content

source" because encrypted data is transferred from one content source, "data center" (Saito,

Column 7, lines 56-67), and the encrypted title key is transferred from another content source,

"key center" (Saito, column 6, lines 61-65). In contrast, in the claimed invention, the encrypted

content and encrypted title key are transferred from the same content source, e.g. the online

service (Specification, see for example, paragraphs 38-39, 43)

The Examiner contends however that the "data center" and "key center" are a single source,

merely different aspects of the same source. In figure 1, Saito clearly shows one box labeled

"Data Center" and another box labeled "Key Center" as comprising the "Data Management

Center".

Applicant has additionally argued (page 10, Item 3)

In Saito, content is encrypted using secret keys, not the customer ID (Saito, column 7, line 61-62,

column 8, line 2). The customer I.D. appears to only be used as a watermark, which Saito clearly

considers to be distinct from encryption. In contrast, in the claimed invention, the customer ID

is used to encrypt the content.

The Applicant does not explicitly state which claims this argument refers to. It is the Examiner's

understanding however, that even in the claimed invention, the customer ID is not used to

directly encrypt the content. Rather instead, the ID is combined with a key, which then in turn is used to encrypt the content. In the newly recited claims however, it appears that Applicant has recited the embodiment wherein the content is encrypted using "at the least", the customer ID.

It is true that the customer ID is used as a watermark to the digital content. However, the Examiner cited this to meet the claim limitation "binding the requested content to the customer ID".

As for a limitation wherein the customer ID is used to encrypt the content, the Examiner contends that Saito recites this limitation as well in addition to its combining to the content as a watermark. Saito meets this limitation is through this process.

Saito discloses a user data, such as a User ID. (Column 6, lines 48-50)

Saito then combines this user data with a key kb1. (Column 6, lines 53-60)

Saito then encrypts secret keys KS1 and KS2 with Kb1. (Column 6, lines 60-67)

Saito then encrypts the content with KS1 (Column 7, lines 65 – Column 8, line 5)

Additionally the Examiner contends that watermarking is understood in the art of cryptography to be an encryption process in itself.

For Example, US patent 6301663 discloses in paragraph 17

(17) third encryption means for encrypting, using the shared encryption key, multimedia data in which electronic watermark information serving as some of the master keys is embedded,

Furthermore US patent 6275559 claim 4 recites

4. The method of claim 1, further comprising the steps of:

decomposing the image into a plurality of blocks;

quantizing each of the blocks;

separating the quantized blocks into a first group data block and a second group data block;

determining the watermark by using the second group data block and components of the first group; and

modifying the first group using an <u>encryption</u> function to embed the <u>watermark</u>.

For this reason, the Examiner considers the watermarking of the content with the user ID to be an encrypting process, as it is readily understood in the art as such.

Applicant has additionally argued (pages 10-11, Items 3 & 4)

Saito does not disclose that a storage medium stores content, customer ID, a media key block,

and encrypted title key, and further does not disclose that these are all accessed from a storage

medium. While various variables may be stored, Saito does not disclose that the encrypted title

key, at the least, is stored. Furthermore, these variables are not accessed; rather, they are

transferred (Saito, see for example, column 8, line 65)

The Examiner contends that however that any access to an item on a computer is inherently in storage of some kind. Whenever data is accessed on a computer, that data is stored somewhere on the computer, whether it be in a hard drive, memory RAM, cache, or even processor registers. All data that is processed, accessed, or manipulated by a computer is inherently stored on a storage medium at some point.

Additionally Saito (Column 8, lines 27-36) discloses data content that is stored on a storage medium.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims 6-8, 19-20, 31-32, 37-38, 40-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito, US patent 6,002,772.

In reference to claim 6:

Saito discloses a method comprising:

- Receiving a request to transfer content to a customer (Column 6, lines 38-42)

- Retrieving from a content source encrypted content corresponding to the requested content, the encrypted content being encrypted by a title key, where the title key is KS1 (Column 7, line 65- Column 8, line 5)

- Obtaining a customer identifier ID associated with the customer, where the identifier is obtained with the other user information. (Column 6, lines 43-52)

- Binding the requested content to the customer ID by using the customer ID to encrypt the title key, where the requested content is bound to the ID by first using the ID to encrypt the title key, KS1. (Column 7, line 65- Column 8, line 5)

- Transferring from the content source the encrypted content and the encrypted title key to a storage medium, where the encrypted title key is first transferred. (Column 6, line 61 – Column 7, line 4) and afterwards, the content is transferred to a storage medium. (Column 7, line 55- Column 8, line 5)

In reference to claim 7:

Saito (Column 6, lines 53-67) discloses the method of claim 6, wherein said binding the requested content to the customer ID by using the customer ID to encrypt the title key comprises combining the customer ID with a media key provided by the content source, where the user ID is bound to a media key, KB1 which is then used to encrypt the title key, KS1, which is then used to encrypt the title key.

In reference to claim 8:

Saito (Column 6, lines 52-60) discloses the method of claim 7, wherein said combining the customer ID with a media key comprises using a cryptographic one-way function, where the customer ID is combined with the media key using the one way hash function, MD5.

In reference to claim 31:

Saito discloses a method comprising:

- Accessing encrypted content (Column 7, line 60-67) that is stored on a storage medium(Column 8, lines 23-54) additionally storing a customer ID(Column 6, lines 48-50) associated with a customer requesting the content(Column 6, lines 35-50), a Media Key block (MKB), the information used to complete Kb1)(Column 6, lines 48-55), and the title key, KS1, (Column 6, lines 60-65) that is encrypted (encrypted title key) with a customer ID (KS1, Column 6, lines 60-65), where KB1 is the combined version of both the customer ID and the public key, KB1. (Column 6, lines 48-55), and where the content is encrypted with the title key, KS1 (Column 7, line 65 – Column 8, line 5)

- Processing the MKB to generate a Media key by using Device Keys associated with a device for using the content, where the MKB is the set of information used to create the Media key, KB1, and where the device keys, KS1 and KS2 associated with the device are also used for using the content. (Column 6, lines 53-67)

- Decrypting the encrypted title key to form the title key by reading a customer ID and combining the customer ID and the Media Key, where the title key, KS1 is decrypted to form the title key, encrypted using the original combined key KB1. (Column 7, lines 4-11)

- Using the title key to decrypt the encrypted content, where the title key KS1 is used to

  decrypt the content. (Column 8, lines 13-17)

Claims 32, 38, 41 are rejected for the same reasons as claim 8.

Claims 19 are rejected for the same reasons as claim 6.

Claims 20 are rejected for the same reasons as claim 7.

Claim 37 are rejected for the same reasons as claim 31.

In reference to claim 40:

Saito discloses a method comprising:

- Receiving a request to transfer content to a customer; (Column 6, lines 43-48)

- Obtaining a customer ID associated with the customer; (Column 6, lines 47-53)

- Retrieving from a content source content corresponding to the requested content;

  (Column 7, lines 65 – Column 8, lines 5)

- Encrypting the content using, at the least, the customer ID. (Column 6, lines 48-67) &

  (Column 7, lines 65 – Column 8, lines 5) & (Column 7, lines 55-64)

In reference to claim 42:

Saito discloses the method of claim 41, additionally comprising transmitting the customer ID and

the encrypted title to a storage medium. (Column 6, lines 47-67) & (Figure 1, item 5)

In reference to claim 43:

Saito discloses the method of claim 42, additionally comprising transmitting a media key block

to a storage medium, where the MKB is the set of information used to create the Media key,

KB1, and where the device keys, KS1 and KS2 associated with the device are also used for using

the content. (Column 6, lines 53-67) & Figure 1, Items 2 and 3.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claim 33 and 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saito.

In reference to claims 33 and 39:

Saito discloses fails to explicitly disclose an embodiment wherein the content comprises a music

title.

Saito however does disclose that audio data content used at the content to be distributed was well

known in the art. (Column 1, lines 40-46)

The Examiner takes official notice that content comprising a music title was well known at the

time of invention. For example, CD tracks have the names of the songs attached to them.

It would have been obvious to one of ordinary skill in the art at the time of invention to have

content comprising a music title in order to allow the invention of Saito to be used with

distributing musical content to reach out to that section of the market.

Conclusion

7.   Any inquiry concerning this communication from the examiner should be directed to

Thomas M Ho whose telephone number is (571)272-3835. The examiner can normally be

reached on M-F from 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Gregory A. Morse can be reached on (571)272-3838.

The Examiner may also be reached through email through Thomas.Ho6@uspto.gov

Any inquiry of a general nature or relating to the status of this application or proceeding should

be directed to the receptionist whose telephone number is (571)272-2100.

General Information/Receptionist   Telephone: 571-272-2100 Fax: 703-872-9306
Customer Service Representative   Telephone: 571-272-2100 Fax: 703-872-9306

TMH

December 22nd, 2005

David Y. Jung
Primary Examiner